



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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December 22, 2015

Dear Sir/Madam:

I write to express to you, the licensed firearms dealers of Massachusetts, my commitment to keeping guns away from those who pose a danger to themselves and to others. Since the tragedy at Sandy Hook Elementary School three years ago, nearly 100,000 people in America have been killed with a gun. For me, this is a public health crisis and acting to address it is a moral imperative. There are simply too many guns that are too easy to obtain.

Gun transactions in Massachusetts are surging. In 2014, the state Firearms Records Bureau recorded 102,081 sales and transfers of handguns, rifles, and shotguns by Massachusetts firearms dealers to licensed state residents, more than double the number from 2006.¹ You are selling more weapons to more people at a scale and at a time that demands a heightened vigilance from every dealer and employee.

There are many causes of gun violence and no simple solutions, but in Massachusetts we have the benefit of strong state laws and regulations to assist law enforcement and law-abiding gun dealers in keeping the public safe. At this moment of deep and justifiable anger over gun violence, you have a serious role in ensuring public safety. I take this opportunity to remind you of some of your significant legal obligations under our state gun laws. Compliance with federal gun laws is also required. In certain transactions, other state's law may control.

Please note that this letter is only a summary. It is not intended to be comprehensive. The laws and regulations cited in this letter should be consulted for more comprehensive and specific information

Legal obligations of licensed firearms dealers in Massachusetts

Your adherence to these state laws, as well as your proper compliance with federal background check and other rules, is a top public safety priority. Please carefully review the list below, which includes key legal requirements that dealers, absent specific exceptions, must follow to comply with Massachusetts law.

¹ "State Licensed Firearms Dealer Transactions 2006-2014," Comm. of Mass. Dept. of Criminal Justice Information Services, Firearms Records Bureau, available at <http://www.mass.gov/eopss/docs/chsb/firearms/massachusetts-gun-dealer-transactions-2006-2014.pdf>.



- 1) Any person who sells, rents or leases firearms must possess a license as a Massachusetts Firearms Dealer.² A license to sell ammunition is also required.³ The license expires and must be renewed after three years.⁴
- 2) It is unlawful for any dealer to deliver a firearm to any person who does not have a state-issued license to carry firearms or to deliver a rifle or shotgun to any person who does not have a firearm identification card.⁵
- 3) It remains unlawful under Massachusetts law to sell prohibited assault weapons or large capacity feeding devices. These are the same weapons made illegal under the Federal Assault Weapons Ban of 1994. Those weapons may not be sold under Massachusetts law.⁶
- 4) If a dealer is presented with an expired, suspended, or revoked identification card or license, the dealer must notify the licensing authority (the city or town police) of the presentment and may take possession of the card or license.⁷
- 5) Every dealer must comply with electronic record-keeping on all gun transactions as directed by the state's Commissioner of the Department of Criminal Justice Information Services and as further articulated in state regulations.⁸ For every gun transfer, firearms dealers must record in a sales record book: 1) the complete description of the firearm, including the make, serial number, firearm type, and designation as a large capacity weapon, if applicable; 2) whether it was sold, rented or leased; 3) the sex, residence and occupation of the transferee; and 4) the transfer date.⁹ The dealer must also record the purchaser's license to carry or firearm identification card number.¹⁰
- 6) Dealers may only sell handguns that meet the safety and performance standards expressed in state law and regulations, including protection against accidental discharge or explosion upon firing. The Secretary of the Executive Office of Public Safety and Security has compiled an [Approved Firearms Roster](#), pursuant to M.G.L. c. 140, § 131-3/4 and 501 CMR 7.00. Dealers

² Mass. Gen. Laws ch. 140, § 122. Mass. Gen. Laws ch. 140, § 128A exempts certain individuals from possessing a Massachusetts Firearms Dealer license who transfer not more than four firearms in any one calendar year.

³ Mass. Gen. Laws ch. 140, § 122B.

⁴ Mass. Gen. Laws ch. 140, § 124. The application for renewal is available at

<http://www.mass.gov/eopss/docs/chsb/firearms/updated-dealer-ammo-gunsmith-app-revised-05-19-15.pdf>

⁵ Mass. Gen. Laws ch. 140, § 123. Under certain circumstances a purchaser must have a permit to purchase issued under Mass. Gen. Laws ch. 140, § 131A.

⁶ Mass. Gen. Laws ch. 140, § 123; see also Definition of "Assault Weapon" in Mass. Gen. Laws ch. 140, § 121.

⁷ Mass. Gen. Laws ch. 140, § 123.

⁸ Mass. Gen. Laws ch. 140, § 123; 803 CMR 10.00 et seq.

⁹ Mass. Gen. Laws ch. 140, § 123.

¹⁰ Mass. Gen. Laws ch. 140, § 123.

are generally prohibited from selling firearms that are not on the Approved Firearms Roster.¹¹

- 7) Dealers are also prohibited from selling handguns that do not meet the Attorney General's handgun sales regulations on child-safety,¹² tamper-resistant serial numbers,¹³ and load indicators or magazine safety disconnects for semi-automatic handguns.¹⁴ As a professional in this field, you are well aware of whether the firearms you sell have features that satisfy these requirements. If there is any doubt regarding a particular firearm, the simplest way for a dealer to comply with these provisions is to obtain a certification from the manufacturer that a firearm meets the handgun regulation requirements.
- 8) Dealers must secure firearms in locked containers or equipped with tamper-resistant mechanical locks or other safety devices.¹⁵
- 9) All firearms and large capacity weapons sold in Massachusetts must include or incorporate a safety device approved by the colonel of state police.¹⁶
- 10) Dealers may not display guns in outer windows or any other places where the weapon "can be readily seen from the outside" and all guns must be unloaded when delivered.¹⁷
- 11) Dealers must post conspicuously at every purchase counter and provide in writing to each gun purchaser the following warning: "IT IS UNLAWFUL TO STORE OR KEEP A FIREARM, RIFLE, SHOTGUN OR MACHINE GUN IN ANY PLACE UNLESS THAT WEAPON IS EQUIPPED WITH A TAMPER-RESISTANT SAFETY DEVICE OR IS STORED OR KEPT IN A SECURELY LOCKED CONTAINER."¹⁸
- 12) Dealers must post conspicuously and distribute at each purchase counter suicide prevention information developed by the Department of Public Health.¹⁹ Such a poster is available at <http://www.mass.gov/eohhs/docs/dph/com-health/injury/gun-safety-poster.pdf>.
- 13) Dealers selling handguns must 1) provide a specific written safety warning to customers; 2) demonstrate to retail customers how to safely load, unload, and store the handgun being sold; how to operate all safety devices; and note the absence, if any, of a load indicator, a

11 Mass. Gen. Laws ch. 140, § 123; The Approved Firearms Roster is available at <http://www.mass.gov/eopss/docs/chsb/firearms/approvedfirearmsroster05-2015.pdf>.

12 940 CMR 16.05(2), (4).

13 940 CMR 16.03.

14 940 CMR 16.05(3), (4); 940 CMR 16.01, 16.05(3); see also Attorney General's Advisory on Glock Handguns (July 16, 2004) and other guidance on the Attorney General's gun safety regulations at <http://www.mass.gov/ago/government-resources/ags-regulations/>.

15 Mass. Gen. Laws ch. 140, § 131L.

16 Mass. Gen. Laws ch. 140, § 131K.

17 Mass. Gen. Laws ch. 140, § 123.

18 Mass. Gen. Laws ch. 140, § 123.

19 Mass. Gen. Laws ch. 140, § 123.

how to operate all safety devices; and note the absence, if any, of a load indicator, a magazine safety disconnect, or an internal safety; and 3) for handguns with barrels shorter than three inches, disclose to all customers, in writing with specific test data, the accuracy limitations of the weapon.²⁰

- 14) Under the 2014 Massachusetts Act to Reduce Gun Violence, dealers must conduct background checks of employees prior to hiring them. The law also required dealers to conduct background checks of existing employees by July 1, 2015.²¹
- 15) Any dealer who loses a firearm or has one stolen must report the loss to the local police and to Department of Criminal Justice Information Services. The report must include a complete description of the weapon, including the make, model and serial number. There are penalties for failure to report.²²
- 16) A dealer's license is subject to forfeiture or suspension for violations of state law.²³
- 17) It is unlawful to sell, offer, transfer or possess any weapon, capable of discharging a bullet or shot, that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk-through metal detectors.²⁴
- 18) These provisions are important for public health and safety. Your compliance is also required by law. Any dealer, and any employee or agent of a dealer, who violates key provisions of M.G.L. c. 140, § 123, and except as provided in M.G.L. c. 140, § 128A, any person who, without a license, sells, rents or leases a firearm, rifle, shotgun or machine gun shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment.²⁵
- 19) Moreover, except as provided, any dealer who 1) sells or furnishes a rifle, shotgun or ammunition to a non-citizen who does not have a permit card; 2) sells or furnishes a rifle, shotgun, or ammunition to any person under 18 years of age; or 3) sells or furnishes a firearm or large capacity rifle or shotgun or ammunition to any person under 21 years of age; shall have their license to sell firearms, rifles, shotguns, or ammunition revoked and faces punishment by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment in a state prison for not more than 10 years or by imprisonment in a house of correction for not more than 2 ½ years or by both such fine and imprisonment.²⁶

20 940 CMR 16.06

21 Mass. Gen. Laws ch. 6, §§ 172, 172M; St. 2014, ch. 284, § 99.

22 Mass. Gen. Laws ch. 140, § 123.

23 Mass. Gen. Laws ch. 140, §§ 123, 125.

24 Mass. Gen. Laws ch. 140, § 131N.

25 Mass. Gen. Laws ch. 140, § 128.

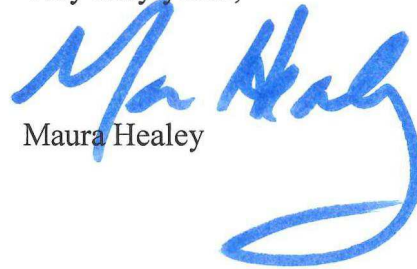
26 Mass. Gen. Laws ch. 140, § 130.

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The gun violence epidemic demands our collective action. As responsible gun dealers, I urge you to redouble your commitment to ensuring the safety of your neighbors and ask you to share any ideas you may have to increase gun safety and reduce gun violence. With any questions, please contact Assistant Attorney General Mike Firestone in my office at 617.963.2775.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Maura Healey", with a large, stylized flourish extending from the end of the signature.

Maura Healey